

State of Utah  
Administrative Rule Analysis

## NOTICE OF PROPOSED RULE AMENDMENT

The agency identified below in box 1 provides notice of proposed rule change pursuant to Utah Code Section 63-46a-4. Please address questions regarding information on this notice to the agency. The full text of all rule filings is published in the Utah State Bulletin unless excluded because of space constraints. The full text of all rule filings may also be inspected at the Division of Administrative Rules.

DAR file no: 32351 Utah Admin. Code ref. (R no.): R307-101-3 Change Code Ref. To:	Date filed: 2/3/2009 Time filed: 4:25:27 PM										
<b>1. Agency:</b> Environmental Quality/Air Quality <b>Room no.:</b> <b>Building:</b> <b>Street address 1:</b> 150 N 1950 W <b>Street address 2:</b> <b>City,state,zip:</b> SALT LAKE CITY, UT 84116-3085 <b>Mailing address 1:</b> PO BOX 144820 <b>Mailing address 2:</b> <b>City,state,zip:</b> SALT LAKE CITY, UT 84114-4820 <b>Contact person(s):</b> <table style="width: 100%;"> <tr> <td style="width: 25%;"><b>Name:</b></td> <td style="width: 25%;"><b>Phone:</b></td> <td style="width: 25%;"><b>Fax:</b></td> <td style="width: 25%;"><b>E-mail:</b></td> <td style="width: 20%;"><b>Remove:</b></td> </tr> <tr> <td>Kimberly Kreykes</td> <td>801-536-4042</td> <td>801-536-4099</td> <td>kkreykes@utah.gov</td> <td></td> </tr> </table>		<b>Name:</b>	<b>Phone:</b>	<b>Fax:</b>	<b>E-mail:</b>	<b>Remove:</b>	Kimberly Kreykes	801-536-4042	801-536-4099	kkreykes@utah.gov	
<b>Name:</b>	<b>Phone:</b>	<b>Fax:</b>	<b>E-mail:</b>	<b>Remove:</b>							
Kimberly Kreykes	801-536-4042	801-536-4099	kkreykes@utah.gov								
<small>(Interested persons may inspect this filing at the above address or at DAR between 8:00 a.m. and 5:00 p.m. on business days.)</small>											
<b>2.</b>	<b>Title of rule or section (catchline):</b> Version of Code of Federal Regulations Incorporated by Reference										
<b>3.</b>	<b>Type of notice:</b> Amendment										
<b>4.</b>	<b>Purpose of the rule or reason for the change:</b> R307-101-3 incorporates by reference the current Code of Federal Regulations (CFR) used in a majority of rules adopted by the AQB. This allows rules that reference R307-101-3 to update the incorporation date with only one rule amendment. The most current version of the CFR for environmental regulations has been updated from July 1, 2007, to July 1, 2008; therefore it is necessary to change R307-101-3.										
<b>5.</b>	<b>This change is a response to comments by the Administrative Rules Review Committee.</b> No										
<b>6.</b>	<b>Summary of the rule change:</b> Below is a list of changes to 40 CFR from July 1, 2007 to July 1, 2008, that affect rules which reference R307-101-3. September 7, 2007 (Volume 72, Number 173): Two Optional Methods for Relative Accuracy Test Audits of Mercury Monitoring Systems Installed on Combustion Flue Gas Streams and Several Amendments to Related Mercury Monitoring Provisions. This action approved two optional mercury (Hg) emissions test methods for potential use in conjunction with an existing regulatory requirement for Hg emissions monitoring, as well as several revisions to the Hg										

monitoring provisions themselves. This action was in regard to the testing and monitoring requirements for Hg specified in the Federal Register on May 18, 2005. This action allowed the use of these two optional methods entirely at the discretion of the owner or operator of an affected emission source in place of the two currently specified methods. This direct final rule also amended Performance Specification 12A by adding Methods 30A and 30B to the list of reference methods acceptable for measuring Hg concentration and the Hg monitoring provisions of May 18, 2005, to reflect technical insights since gained by EPA which will help to facilitate implementation including clarification and increased regulatory flexibility for affected sources. The definition of "sorbent trap monitoring system" in Section 72.2 was revised. September 28, 2007 (Volume 72, Number 188): Correction of Two Optional Methods for Relative Accuracy Test Audits of Mercury Monitoring Systems Installed on Combustion Flue Gas Streams and Several Amendments to Related Mercury Monitoring Provisions. This action corrected minor errors in a final rule published September 7, 2007 (Volume 72, Number 173, Page 51501). May 22, 2008 (Volume 73, Number 100): Update of Continuous Instrumental Test Methods: Technical Amendments. This action corrected errors in a final rule published May 15, 2006, which updated five continuous instrumental test methods. As published, the rule contained errors and provisions that needed to be clarified. EPA published a direct final rule with a parallel proposed rule on September 7, 2007 to correct the errors and add clarifying language. However, adverse comments were received on the direct final rule and it was withdrawn on November 5, 2007. This action finalized the parallel proposal. In this final rule, EPA corrected errors, clarified certain provisions, and responded to the adverse comments received on the direct final rule published on September 7, 2007. October 19, 2007 (Vol. 72, No. 202): Revisions to Definition of Cogeneration Unit in Clean Air Interstate Rule (CAIR), CAIR Federal Implementation Plans, Clean Air Mercury Rule (CAMR); and Technical Corrections to CAIR, CAIR FIPs, CAMR, and Acid Rain Program Rules. Section 60.4102 was amended as follows: a. Added, in alphabetical order, a new definition of "Biomass;" b. In the definition of "Cogeneration unit," removed the period at the end of paragraph (2)(ii) and added in its place a semicolon and by adding a new paragraph (3); and c. Added a sentence at the end of the definition of "Total energy input." The authority citation for Part 72 was revised to read as follows: Authority: 42 U.S.C. 7601 and 7651 et seq. Section 72.24 was amended in paragraph (a)(9), introductory text, by removing the words "life-of-the-unit, firm power contractual arrangements" and adding in their place the words "a life-of-the-unit, firm power contractual arrangement." January 24, 2008 (Vol. 73, No. 16): Revisions to the Continuous Emissions Monitoring Rule for the Acid Rain Program, NOX Budget Trading Program, Clean Air Interstate Rule, and the Clean Air Mercury Rule. EPA finalized rule revisions that modified existing requirements for sources affected by the federally administered emission trading programs including the NOX Budget Trading Program, the Acid Rain Program, the Clean Air Interstate Rule, and the Clean Air Mercury Rule. The revisions were prompted primarily by changes being implemented by EPA's Clean Air Markets Division in its data systems in order to utilize the latest modern technology for the submittal of data by affected sources. Other revisions addressed issues that were raised during program implementation, fixed specific inconsistencies in rule provisions, or updated sources incorporated by reference. These revisions did not impose significant new requirements on sources with regard to monitoring or quality assurance activities. Section 93.101 was amended as follows: a. Revised the definitions for "Metropolitan planning organization (MPO)" and "Transportation improvement program (TIP);" and b. Revised the first sentence of the

	<p>definition for "Transportation control measure (TCM)." Section 72.2 was amended as follows: a. Revised the definition of "Capacity factor;" b. In the definition of "Diluent cap," removed the words "CO2 mass emission rate, or heat input rate" after the words "NOX emission rate;" c. In the definition of "EPA protocol gas," added a new sentence to the end of the definition; d. Revised the definition of "Excepted monitoring system;" e. Added the new definitions in alphabetical order for "Air Emission Testing Body (AETB)," "EPA Protocol Gas Verification Program," "Long-term cold storage," "NIST traceable elemental Hg standards," "NIST traceable source of oxidized Hg," "Qualified Individual," and "Specialty gas producer;" and f. Removed the definition for "Research gas material (RGM)." February 13, 2008 (Vol. 73, No. 30): Correction: Revisions to the Continuous Emissions Monitoring Rule for the Acid Rain Program, NOX Budget Trading Program, Clean Air Interstate Rule, and the Clean Air Mercury Rule. Part 75 Appendix F Eq. (F-8) was corrected.</p>
7.	<p><b>Aggregate anticipated cost or savings to:</b></p> <p><b>A) State budget:</b> Because these revisions do not create new requirements, no change in costs is expected for the state budget.</p> <p><b>B) Local government:</b> Because this revision does not create new requirements, no change in costs is expected for local governments.</p> <p><b>C) Small businesses (fewer than 50 employees) AND persons other than businesses:</b> Small Businesses: Because this revision does not create new requirements, no change in costs is expected for small businesses. Other Persons: Because this revision does not create new requirements, no change in costs is expected for other persons.</p>
8.	<p><b>Compliance costs for affected persons</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency): Because this revision does not create new requirements, no change in costs is expected for affected persons.</p>
9.	<p><b>Comments by the department head on the fiscal impact the rule may have on businesses:</b> This amendment does not create new requirements. Therefore, no additional costs are expected. Bill Sinclair, Acting Executive Director</p>
10.	<p><b>This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws.</b> <b>State code or constitution citations (required):</b> 19-2-104(1)(a)</p>
11.	<p><b>This rule adds, updates, or otherwise changes the following title of materials incorporated by reference</b> (a copy of materials incorporated by reference must be submitted to DAR; if none, leave blank): 40 CFR</p>
12.	<p><b>The public may submit written or oral comments to the agency identified in box 1.</b> (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the <i>Utah State Bulletin</i>. See Section 63-46a-5 and Rule R15-1 for more information.) <b>A) Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy):</b> 3/31/2009</p>

	<b>B) A public hearing (optional) will be held:</b> <b>on (mm/dd/yyyy) at (time): at (place):</b>
<b>13.</b>	<b>This rule change may become effective on (mm/dd/yyyy):</b> 5/6/2009  NOTE: The date above is the date on which this rule <i>MAY</i> become effective. It is <i>NOT</i> the effective date. After the date designated in Box 12(A) above, the agency <i>must</i> submit a Notice of Effective Date to the Division of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date <i>will</i> result in this rule lapsing and will require the agency to start the rulemaking process over.
<b>14.</b>	<b>Indexing information - keywords (maximum of four, in lower case, except for acronyms (e.g., "NASA") or proper nouns (e.g., "Medicaid")):</b> definitions, air pollution
<b>15.</b>	<b>Attach an RTF document containing the text of this rule change (filename):</b> There is currently a document associated with this filing. <input type="text" value="Rule Text"/>
<b>To the agency:</b> Information requested on this form is required by Section 63-46a-4, 5, 6, and 10. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the Utah State Bulletin, and delaying the first possible effective date.	

### AGENCY AUTHORIZATION

<b>Agency head or designee, and title:</b>	Bryce Bird Planning Branch Manager	<b>Date</b> (mm/dd/yyyy):	1/20/2009
--	---------------------------------------	------------------------------	-----------